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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,039	09/21/2000	William J. Beyda	00P7906US	9089

7590 10/22/2010
Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

REFAI, RAMSEY

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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10/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
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8 *Ex parte* WILLIAM J. BEYDA
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11 Appeal 2009-007555
12 Application 09/668,039
13 Technology Center 3600
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16 Before HUBERT C. LORIN, ANTON W. FETTING, and
17 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.
18 FETTING, *Administrative Patent Judge*.

19 DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE²

William J. Beyda (Appellant) seeks review under 35 U.S.C. § 134 (2002) of a final rejection of claims 1-5, 14-18, and 29-38, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellant invented a way of processing electronic messages (Specification 1: Technical Field).

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added].

1. An electronic messaging system for filtering electronic messages, comprising[:]

[1] a message server

operable to receive and transmit electronic messages including electronic mail messages,

the message server comprising an access restriction filter comprising

a character recognizer

configured to translate characters in image components of respective ones of electronic

² Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed February 11, 2008) and Reply Brief ("Reply Br.," filed July 25, 2008), and the Examiner's Answer ("Ans.," mailed June 2, 2008).

1 messages into computer-readable character
2 representations,

3 [2] wherein

4 the access restriction filter is configured

5 to detect an access restriction notice in the
6 respective ones of the electronic messages

7 by comparing

8 the one or more translated computer-
9 readable character representations
10 respectively produced by the character
11 recognizer

12 to respective representations of one or more
13 access restriction notices stored in memory,

14 the access restriction filter being additionally configured

15 to respond to the detection of the access restriction
16 notice

17 in accordance with a prescribed transmission
18 policy

19 for handling electronic messages containing
20 the detected access restriction notice.

21 The Examiner relies upon the following prior art:

Fields US 6,704,797 B1 Mar. 9, 2004

Sato US 6,914,691 B1 Jul. 5, 2005

22 Claims 1-5, 14-18, and 29-38 stand rejected under 35 U.S.C. § 103(a) as
23 unpatentable over Fields and Sato.

24 ISSUE

25 Does the phrase “access restriction notice” require that the intent for
26 notice as to access restriction be evident?

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FACTS PERTINENT TO THE ISSUES

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The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

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Facts Related to Claim Construction

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01. The Specification states that “the term ‘access restriction notice’ is intended to refer to any notice restricting access to information associated with the notice.” Specification 4:21-23.

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Facts Related to the Prior Art

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Fields

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02. Fields is directed to distributing image content over a computer network and protecting images with a policy based set of credentials. Fields 1:8-12.

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03. Fields protects images via a server-based policy that results in the selective distribution of one of multiple versions of an original image. The policy includes a set of one or more rules that each include given criteria. When a request for a web page is received, a given rule in the set is evaluated against client-specific data obtained from the client request. If a condition of the rule is satisfied against the client-specific data, a given restriction may be imposed on the image distribution. Fields 2:37-46.

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04. Thus, the rules in the policy determine which version, if any, is served in a given page. Thus, for example, a given policy may include a rule that a given image is not distributed from the server

1 to any referring pages outside of a given domain. Another rule
2 may restrict distribution to a modified version of an image, e.g., a
3 version that is overlaid with a company logo or watermark, to any
4 client machine that is not on a permitted list of IP addresses.

5 Another rule may restrict distribution to a low resolution version
6 of the image to any referring page that is within a given third party
7 domain. Fields 2:38-58.

8 05. With Fields' policy-based implementation, one may develop an
9 access policy with rules that limit how an image is distributed
10 from the server in response to client-specific data included in
11 server requests received from web clients in the network. The
12 respective access policy may be based on given client-specific
13 access criteria, e.g., the identity of the referring page, the client
14 machine IP address, an ISP identity, a user identifier such as a
15 cookie, or the existence of a user authentication. The client-
16 specific access restriction need not be exposed to the requesting
17 clients. Fields 2:59 – 3:3.

18 06. Restricting access to an image begins by establishing a
19 distribution policy at a server. The policy defines at least one rule
20 that defines criteria for permitted distribution of the image. In
21 response to receipt of a request for the image, Fields parses the
22 request to identify specific data pertaining to the requesting client.
23 This data is then compared to the distribution criteria in the rule. A
24 given version of the image is then served as a result of the
25 comparison. The version may have been stored at the server or it

1 may generate "on-the-fly" as the page is served to the requesting
2 client. Fields 3:4-15.

3 *Sato*

4 07. Sato is directed to an image processing device. Sato 1:9-10.

5 ANALYSIS

6 *Claims 1-5, 14-18, and 29-38 rejected under 35 U.S.C. § 103(a) as*
7 *unpatentable over Fields and Sato.*

8 Claim 1, and each of the other two independent claims, recites an access
9 restriction filter to detect an access restriction notice in electronic messages.
10 The Examiner found Fields described this. Ans. 3. The Appellant argues
11 that none of Fields' client specific data constitutes an access restriction
12 notice within the ordinary and accustomed meaning of the term. Appeal Br.
13 10. The Examiner responded:

It is unclear what the Appellant has based his meaning of the term on since it is not clearly defined in the Appellant's specification and it is not a term which has a specific well known definition in the technological arts. Given the broadest reasonable interpretation consistent with the specification, Fields et al determination of whether an image or page has a distribution policy meets the scope of the claimed limitation.

Ans. 7. According the Specification, the phrase is intended to refer to any notice restricting access to information associated with the notice. FF 01. Thus, the limitation refers to any portion in a message that is intended to notify one that access to information is restricted. The dispositive feature is that the notice of intent must be in the message. The Examiner has not made any finding as to where Fields or Sato, describe such a notice of intent *in a message*. As the Appellant contends at Appeal Br. 10-11, Fields does not

1 respond to a notice of intent in a message, but rather applies a server's own
2 criteria for restricting access based on client information. There is no
3 explicit or implicit indication in Fields that such client data would include
4 any notice of restrictive intent. Fields simply examines information about
5 the client and based on that makes a decision as to restriction. FF 02-06.
6 While we agree with the Examiner that the phrase "access restriction notice"
7 is broad, it is definite in that the intent for notice must be evident.

8 CONCLUSIONS OF LAW

9 Rejecting claims 1-5, 14-18, and 29-38 under 35 U.S.C. § 103(a) as
10 unpatentable over Fields and Sato is in error.

11 DECISION

12 The rejection of claims 1-5, 14-18, and 29-38 under 35 U.S.C. § 103(a)
13 as unpatentable over Fields and Sato is not sustained.

14 No time period for taking any subsequent action in connection with this
15 appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R.
16 § 1.136(a)(1)(iv) (2007).

18 REVERSED

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22 mev

23
24 Address

Appeal 2009-007555
Application 09/668,039

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